

Application No.: 10/617,624
Amendment Under 37 C.F.R. 1.111

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Docket No.: 595792000300

REMARKS

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Status of the Claims

Upon entry of this amendment, claims 1, 9-11 and 18-21 are pending. Claims 1 and 18 have been amended. Claims 2-8 and 12-17 have been canceled. Since the Advisory Action indicated that the amendments filed with the Response to the final Office Action were not entered, all changes are marked with respect to the claims as amended in the Response to the Non-Final Office Action submitted January 30, 2006.

Cancellation of the claims is made without prejudice, without intent to abandon any originally claimed subject matter, and without intent to acquiesce in any rejection of record. Applicant expressly reserves the right to file one or more continuing applications hereof containing the subject matter of the canceled claims.

Claim 1 has been amended to specify that the transgenic oil crop plant comprises SEQ ID NO: 1. Support for this amendment can be found throughout the specification, for example, in the Example and originally filed claim 17.

Claim 18 has been amended to correct for proper claim dependency, antecedent basis, and to add the word "a" before "promoter".

Rejection under 35 U.S.C. §112, Second Paragraph

Claims 1, 9-11 and 17-21 remain rejected and claims 22-30 are newly rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite. The Examiner specifically objects to the term "normal or near normal" in the claims.

The term "normal or near normal" has been deleted from the claims. Thus, this rejection is moot.

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Rejection under 35 U.S.C. §112, 1st Paragraph, Enablement

Claims 1, 9-11 and 21 remain rejected and claims 22-25 and 30 are newly rejected under 35 U.S.C. §112, first paragraph, as allegedly lacking enablement. The Office Action indicates that the specification is enabling for a transgenic plant comprising a Na⁺/H⁺ transporter transgene set forth in SEQ ID NO: 1, but allegedly not enabling for a transgenic plant comprising any NHX-type transporter protein.

Claim 1 has been amended to specify that the transgenic oil crop plant comprises SEQ ID NO: 1. As such, Applicant respectfully asserts that the rejection of claims 1, 9-11 and 21 under 35 U.S.C. § 112 for lack of enablement is moot.

Rejection Under 35 U.S.C. §112, 1st Paragraph, Written Description

Claims 1, 9-11 and 21 remain rejected and claims 22-25 and 30 are newly rejected under 35 U.S.C. §112, first paragraph, as allegedly lacking written description. The Office Action alleges that the specification fails to correlate the structures of the broadly claimed genus to the function of salt tolerance, and that the only structure whose function has been correlated with increased salt tolerance is the one described in SEQ ID NO: 1.

As noted above, claim 1 has been amended to specify that the transgenic oil crop plant comprises SEQ ID NO:1. In light of the foregoing amendment and remarks, Applicant respectfully asserts that the rejection of claims 1, 9-11 and 21 under 35 U.S.C. §112, first paragraph is moot.

Claims 1, 9-11 and 17-30 are further rejected under 35 U.S.C. §112, first paragraph, as allegedly lacking written description. The Examiner specifically objects to the recitation "under a salt concentration that causes at least a relative yield decrease of 35 percent." The claims have been amended to delete this recitation. Hence, Applicant respectfully asserts that this rejection is moot.

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CONCLUSION

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In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 595792000300. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Dated:

12/08/06

Respectfully submitted,

By



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